

Message

From: Ex. 6 PII, Jeff Parker
Sent: 7/31/2010 12:15:26 AM
To: Patricia McGrath/R10/USEPA/US@EPA; Michelle DePass/DC/USEPA/US@EPA; Michelle DePass/DC/USEPA/US@EPA
Subject: RE: Heads-up on LA Times on D'ham meeting and 404(c)

Mine is not the best written email, because I lifted from another to my clients, and failed to fully edit. But I hope I communicated that you might want a "heads-up," and that my clients and I were surprised by the LA Times piece.

Jeff Parker

From: Ex. 6 PII, Jeff Parker
Sent: Friday, July 30, 2010 3:31 PM
To: 'McGrath.Patricia@epamail.epa.gov'; 'depass.michelle@epamail.epa.gov'
Subject: Heads-up on LA Times on D'ham meeting and 404(c)

Ms. McGrath and Ms Depass,

I learned this morning that a reporter, Kim Murphy, at the LA Times, is doing a Pebble-related update. She had already learned of the Dillingham meeting and the 404(c) matter, presumably from KLDG. I was in the process of drafting advice to my tribal clients, when the LA Times reporter called. She said that she had already talked to Mr. Tilden, and wanted to talk about 404(c). My central advice to my clients is to be governmental. I had no time to offer advice, so I stood in for them. I said as follows:

- (1) Tribes have used their government-to-government relationship with the United States to ask EPA to consider commencing a 404(c) public process.
- (2) The Tribes' goal here is positive: i.e., to protect the Kvichak and Nushagak drainages. (We then discussed 404(c), its text and regulations in summary fashion, hitting on AMD and secondary effects on subsistence from increased population and access, and that 404(c)'s public process is a means to protect fish and game habitat and commercial, subsistence and sport uses of fish and game.)
- (3) The Tribes want and expect an on-going, substantive, government-to-government relationship. The Tribes appreciate that EPA respects the government-to-government relationship with Tribes.
- (4) 404(c) is a highly deliberative process.

I also summarized what my clients are doing the following:

- (1) suing DNR to overturn the 2005 BBAP,
- (2) have asked EPA to consider 404(c), as we'd already discussed,
- (3) though counsel, have commenced government to government discussions with COE and EPA about the Tribes' potentially being cooperating agencies
- (4) have asked a legislator to encourage, facilitate and participate in discussions within the communities in the area about whether DNR or ADF&G is the appropriate land manager.

I explained some of how their four actions interrelate.

EPA may get a question. Please feel free to forward as appropriate.

JP